

CLERK US BANKRUPTCY COURT
DISTRICT OF OREGON

'05 MAY -5 P3:49

LODGED _____ REC'D _____

PAID _____ DOCKETED _____

Albert N. Kennedy, OSB No. 82142

Direct Dial: (503) 802-2013

Facsimile: (503) 972-3713

E-Mail: al@tonkon.com

Timothy J. Conway, OSB No. 85175

Direct Dial: (503) 802-2027

Facsimile: (503) 972-3727

E-Mail: tim@tonkon.com

Michael W. Fletcher, OSB No. 01044

Direct Dial: (503) 802-2169

Facsimile: (503) 972-3869

E-Mail: michaelwf@tonkon.com

TONKON TORP LLP

1600 Pioneer Tower

888 S.W. Fifth Avenue

Portland, OR 97204

Attorneys for Tort Claimants Committee

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

In re

ROMAN CATHOLIC ARCHBISHOP
OF PORTLAND IN OREGON, AND
SUCCESSORS, A CORPORATION
SOLE, dba the ARCHDIOCESE OF
PORTLAND IN OREGON,

Debtor.

Case No. 04-37154-elp11

TORT CLAIMANTS COMMITTEE,

The Committee,

v.

ROMAN CATHOLIC ARCHBISHOP
OF PORTLAND IN OREGON, AND
SUCCESSORS, A CORPORATION
SOLE, dba the ARCHDIOCESE OF
PORTLAND IN OREGON,

Defendant.

Adv. Proc. No. 04-03292-elp

**TORT CLAIMANTS COMMITTEE'S
SECOND MOTION FOR PARTIAL
SUMMARY JUDGMENT**

ORAL ARGUMENT REQUESTED

* * *

Pursuant to Bankruptcy Rule 7056 and Federal Rule of Civil Procedure 56, the Tort Claimants Committee moves for an order granting it partial summary judgment as follows:

1. Dismissing Debtor's Third Affirmative Defense (Lack of Subject Matter Jurisdiction);
2. Dismissing Debtor's Fifth Affirmative Defense (Religious Freedom);
3. Dismissing Debtor's First Affirmative Defense (Failure to Join Necessary Parties Needed for Just Adjudication);
4. Dismissing Central Catholic High School Alumni and Parents Association's Second Affirmative Defense (Failure to Join Parties Needed for Just Adjudication); and
5. Dismissing Central Catholic High School Alumni and Parents Association's Third Affirmative Defense (Religious Freedom).

This motion is supported by the Tort Claimants Committee's Memorandum in Support of Second Motion for Partial Summary Judgment, the Tort Claimants Committee's Amended Concise Statement of Material Facts, the Declaration of Timothy J. Conway in Support of Tort Claimants Committee's Second Motion for Partial Summary Judgment, the Tort Claimants Committee's Appendix in Support of Second Motion for Partial Summary Judgment, the Affidavit of Malcolm Newkirk in Support of Tort Claimants Committee's Motion for Partial Summary Judgment, and the Affidavit of Patricia L. Miller in Support of

* * *

* * *

* * *

* * *

* * *

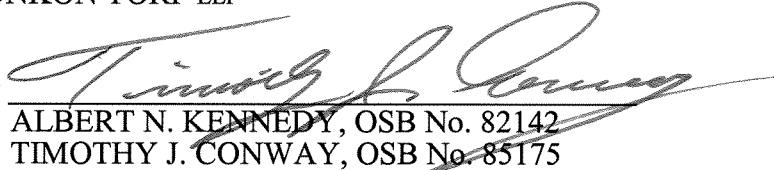
* * *

1 Tort Claimants Committee's Motion for Partial Summary Judgment. The Tort Claimants
2 Committee's Motion for Partial Summary Judgment and Memorandum in Support filed on
3 November 12, 2004 are hereby withdrawn.

4 DATED this 5th day of May, 2005.

5 TONKON TORP LLP

6
7 By


ALBERT N. KENNEDY, OSB No. 82142
TIMOTHY J. CONWAY, OSB No. 85175
Attorneys for Tort Claimants Committee

9 MARCI A. HAMILTON, *Pro Hac Vice*
10 36 Timber Knoll Drive
Washington Crossing, PA 18977
Telephone: (215) 493-1973
Special Counsel for Tort Claimants Committee

11 032545\00001\625390 V001
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **TORT CLAIMANTS COMMITTEE'S SECOND MOTION FOR PARTIAL SUMMARY JUDGMENT** on:

Pamela J. Griffith
U.S. Trustee's Office
620 S.W. Main Street, Room 213
Portland, OR 97205

David A. Foraker
Greene & Markley, P.C.
1515 S.W. Fifth Avenue, Suite 600
Portland, OR 97201-5492
Future Claimants Representative

Howard M. Levine
Thomas W. Stilley
William N. Stiles
Sussman Shank LLP
1000 S.W. Broadway, Suite 1400
Portland, OR 97205-3089
Attorneys for Debtor Roman Catholic
Archbishop of Portland in Oregon

REQUESTS FOR NOTICE:

Steven M. Hedberg
Douglas R. Pahl
Jeanette L. Thomas
Perkins Coie LLP
1120 NW Couch Street, 10th Floor
Portland, OR 97209-4128
Attorneys for Parishes and
Parishioners Committee

James M. Finn
Schwabe, Williamson & Wyatt, P.C.
1600-1900 Pacwest Center
1211 S.W. Fifth Avenue
Portland, OR 97204-3795
Special Counsel for Debtor

John L. Langslet
Scott A. Kamin
Michael J. Farrell
Martin, Bischoff, Templeton,
Langslet & Hoffman
900 Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204
Attorneys for Oregon Insurance
Guaranty Association

L. Martin Nussbaum
Rothgerber Johnson & Lyons LLP
Wells Fargo Tower, Suite 1100
90 South Cascade Avenue
Colorado Springs, CO 80903
Special Counsel for Debtor

Brad T. Summers
Ball Janik LLP
1100 One Main Place
101 S.W. Main Street
Portland, OR 97204-3219
Attorneys for Central Catholic High
School Parents Association and
Central Catholic High School Alumni
Association

☒ mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each party's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below;

☐ causing a copy thereof to be hand-delivered to each party at each party's last-known address on the date set forth below;

1 ☐ sending a copy thereof via overnight courier in a sealed, prepaid envelope,
2 addressed to each party's last-known address on the date set forth below;


3 ☐ faxing a copy thereof to each party at such party's last-known facsimile
4 number on the date set forth below; or

5 ☐ e-mailing a copy thereof to each party at such party's last-known e-mail
6 address on the date set forth below.

7 DATED this 5th day of May, 2005.

8 TONKON TORP LLP

9 By


ALBERT N. KENNEDY, OSB No. 82142
TIMOTHY J. CONWAY, OSB No. 85175
Attorneys for Tort Claimants Committee

10 032545\00001\625390 V001